THE KERALA GOVERNMENT SECRETARIAT INSTRUCTIONS

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THE KERALA GOVERNMENT

SECRETARIAT INSTRUCTIONS

CHAPTER I

GENERAL

1. These Instructions may be called "The Government Secretariat Instructions".

2. In these Instructions unless there is anything repugnant in the subject or context—

(1) 'Case' includes the papers under consideration and all previous papers and notes put up in connection therewith to enable the questions raised to be disposed of;

(2) 'Department' means a department of the Secretariat acting under the direction of the Minister in charge or otherwise acting on behalf of the Government in accordance with the provisions in that behalf contained in the Business Rules and these Instructions;

(3) 'Minister in charge' means the Minister appointed by the Governor to be in charge of the department or part of the department to which a case belongs;

(4) A case shall be deemed to belong to the department which in the ordinary course of business would deal with it and issue orders upon it, or to which it has been allotted;

(5) References in these Instructions to cases involving financial issues or proposals affecting the finances of the State shall be construed as references to the cases or proposals in respect of which the Finance Department is required to be consulted under Business Rule 10(i).

3. (1) Subject to any standing orders issued under Business Rule 23 the Secretary in each department shall circulate files to the Minister in charge

or to other Ministers in the following cases before issue of orders:—

(a) cases where a question of policy is involved;

(b) cases relating to new schemes;

(c) cases where there is a difference of opinion between the Secretary concerned and the Head of a Department;

(d) cases of misconduct of gazetted Government servants and of appeals against the orders of heads of departments, where appeals lie to Government:

(e) cases relating to appointments, promotions, postings, transfers and leave of gazetted officers where the minimum pay in the time scale is Rs. 300 or above:

Provided that cases of leave where no substitute is appointed and cases of extension of leave where no change in existing arrangement is involved need not be circulated to Ministers;

(f) cases where rules are intended to be relaxed;

(g) cases where it is proposed to deviate from the advice of the Kerala Public Service Commission;

(h) matters in which there is a difference of opinion between this Government and other State Governments or the Government of India;

(i) all other cases which the Secretary considers to be of importance for circulation to the Ministers:

Provided that—

(i) no case shall be circulated to the Ministers other than the Minister in charge until it has been seen by the Minister in charge and, if so required by the Finance Department, also by the Finance Minister;

(ii) whenever it is proposed to issue orders by which the Secretary or any gazetted officer in his

department of the Secretariat will be directly or indirectly benefited, the case shall be circulated to the Minister in charge through the Chief Secretary.

(2) It shall be open to the Minister in charge of a department to direct that any case or class of cases in his department shall be submitted to him for orders and the Secretary in the department shall submit such cases to him accordingly.

(3) Subject to the provisions of clauses (1) and (2) the Secretary in each department shall ordinarily dispose of cases which do not involve the adoption of any new policy or principle or are not of such importance or special interest as to require the orders of the Minister in charge, provided that the concurrence of the Finance and any other department concerned has been obtained if financial or other implications are involved. If the case concerns two or more departments and the Secretaries of the departments do not agree as to its disposal, the case shall be circulated to the Ministers in charge of the departments concerned. In extreme cases of urgency where it is not possible to obtain the orders of the Minister in time, the Secretary may issue orders and submit the case to the Minister for ratification.

Note:—A Secretary to Government may, without circulation, order the publication of a formal notification embodying temporary grade promotions or reversions where such promotions or reversions follow departmental promotion list or seniority as the case may be strictly and the Secretary has no reason to doubt that the Government would approve of them.

4. Where a case is to be circulated to two or more Ministers, the order of circulation shall, save as otherwise provided in these instructions, be as follows:—

(1) First to the Minister in charge of the department;

(2) next to the Finance Minister, if financial issues are involved, or if circulation to him is required by the Finance Department;

(3) then to any other Minister or Ministers directly concerned with the subject-matter of the case; and

(4) then to the remaining Ministers, if any:

Provided that the Secretary in the department concerned may, in his discretion, interrupt circulation at any stage, if he considers that such a step is warranted by the minute recorded.

5. A Minister differing from the minute of any other Minister or Ministers or requiring further information may, in his discretion, send the file back to such other Minister or Ministers or to the Secretary. Ordinarily in all other cases when a file is marked for more than two Ministers and they disagree, the file shall be circulated to the other Minister or Ministers without interruption. This does not derogate from a Secretary's power to interrupt circulation in his discretion under the proviso to instruction 4.

6. The Chief Secretary to Government shall have the right and duty to tender necessary advice to the Chief Minister or other Ministers either orally or in a written note at any time before a Minister or the Chief Minister passes final orders on a case. Over and above the responsibility attached in this regard to the Secretary of the Department, it shall be the duty of the Chief Secretary to draw the attention of the Chief Minister that any course of action proposed is contrary to the provision of any rule or law or is at variance with the policy adopted by Government or any important aspect that may have escaped attention so far.

All files circulated to the Chief Minister shall be circulated through the Chief Secretary:

Provided that this shall not debar other Ministers from circulating files directly to the Chief Minister.

When cases circulated under instruction 4 have to be circulated to the Chief Minister also, the Secretary shall, in circulating the case to the Minister in

charge of the department as provided in instruction 4(1), do so through the Chief Secretary.

All cases returned to the departments from the Chief Minister shall be returned through the Chief Secretary:

Provided that the Chief Minister may, in his discretion, return cases directly to other Ministers:

Provided further that the Secretary shall submit such cases to the Chief Secretary, when they are returned to the Department and if they are found to contain important decisions.

7. (1) The Secretary in a department is a Secretary to the Government and not to the Minister in charge of the department. It is the duty of the Secretary to see that the policy of the Government in the department with which he is concerned is carried out. The Secretary shall have the right to tender the necessary advice to the Minister either orally or in a written note at any time before the Minister passes final orders on a case. It shall also be the duty of the Secretary to draw the attention of the Minister to the fact that any course of action proposed is contrary to the provisions of any rule or law or is at variance with the policy so far adopted by Government or that any important aspect has escaped attention.

(2) Where a Secretary observes any error of facts in a Minister's minute he shall return the case to the Minister with a note.

8. It shall be the duty of the Secretary in the department concerned to bring to the notice of the Chief Minister through the Chief Secretary the cases referred to in clauses (ii), (v), (xiii) and (xxi) of rule 34(i) of the Business Rules.

9. All cases which have to be submitted to the Governor shall be submitted to him only through the Chief Secretary and the Minister or Ministers concerned and the Chief Minister.

10. Where under these instructions a case has to be submitted to the Governor, the Secretary shall,

indicate when submitting the case to the Minister or Ministers that the case has to be submitted to the Governor, and shall submit the case to the Minister through the Chief Secretary.

11. (i) In submitting proposals for the appointment, posting, or promotion of an officer, which under rules has to be done by the Government, the Secretary shall append a note showing whether the proposed appointment, posting or promotion is or is not in compliance with the rules governing the service to which the officer belongs;

(ii) Appointments, postings and promotions shall be made in accordance with the following provisions:—

(1) All correspondence dealing with appointments, postings and promotions shall be treated as strictly confidential and shall be kept as far as possible in the hands of gazetted officers of the Secretariat.

(2) Appointments may be divided into two clauses—

(a) those in departments under their own departmental heads;

(b) all those not under any departmental head, as for example, appointments of heads of departments themselves and of members of the Indian Civil Service and the Indian Administrative Service.

(3) In the case of appointments of the first class, the Head of the Department will submit his recommendation to the Secretary of the Department concerned pointing out the vacancy and the conditions of appointment and naming such persons as are entitled to the appointment under the Rules governing the services or appear to be best qualified for the appointment and also furnish information on the following points.

(i) Officer's name.

(ii) Appointment and posting now or last held.

(iii) Period for which held.

(iv) If returning from leave, duration of leave.

(v) Native district.

(vi) District in which he holds property.

(vii) Proposed appointment and posting.

(viii) Whether he is the legitimate person for promotion according to departmental promotion list or seniority.

(ix) Cause of vacancy and reasons for transfer of officers otherwise than on promotion or reversion.

In cases of appointments of the Second Class, the Chief Secretary will himself furnish the necessary information with the help of the Administrative Department concerned of the Secretariat. The Secretary or Chief Secretary as the case may be will submit the case to the Minister concerned for orders. Cases which have to be sumbitted to the Chief Minister with reference to the provisions of the Business Rules will be submitted to him through the Chief Secretary and the Minister or Ministers concerned.

(4) All proposals for the appointment of Heads of Departments shall be submitted to the Minister or Ministers concerned by the Chief Secretary.

(5) The provisions of this instruction will apply *mutatis mutandis* to a proposal to lend the services of a gazetted officer to the Government of India or to a State Government or on foreign service; but it shall not be necessary to prepare the form of recommendation prescribed in clause (3).

(6) After a case has been dealt with in accordance with the procedure laid down in the preceding clauses and the orders of the Chief Minister or the Governor, as the case may be, have been obtained, the Secretary in the department will communicate the orders passed to the Head of the Department and will also in due course publish the necessary notification in the Kerala Gazette.

12. (1) An application for leave made by a gazetted officer on which orders have to be passed by the Government shall be submitted to the Minister or Ministers in charge of the department or departments concerned through the Chief Secretary and to the Chief Minister—

(a) if the application is made by the Head of a Department;

(b) if being an application for leave, it is made by an officer belonging to an All-India Service.

(2) All other applications for leave by gazetted officers on which orders have to be passed by Government shall be submitted to the Minister or Ministers in charge of the department or departments concerned.

13. When a proposal for grant of extension of service or re-employment to a gazetted officer, after the date on which he should retire compulsorily is received, the Secretary shall informally consult the Minister and ascertain his wishes and the case shall be circulated for final orders only if the Minister indicates agreement to the proposed extension. If he does so, the case shall be circulated to him through the Finance Department and the Chief Secretary and also to the Chief Minister after the Minister has recorded his orders.

14. All applications for permission to retire on proportionate pension shall be submitted through the Chief Secretary to the Minister in charge and to the Chief Minister.

15. Cases involving relaxation of service rules or orders relating to qualifications for appointment, tests to be passed, promotion etc., and other cases where the Administrative Department feel any doubt about the interpretation of application of such rules or orders should be sent to Public (Services) Department, for advice. Relaxation of statutory rules or orders is made only in rare cases of undoubted personal hardship. Before files are referred to Public (Services) Department for advice, the Administrative Department should properly examine the proposals with reference to the relevant rules and

orders and make a definite recommendation about the action proposed. If the advice tendered by Public (Services) Department is not accepted by the Administrative Department, the case should be circulated to the Chief Minister through the Chief Secretary and the Minister concerned.

16. (1) Each department to which a case is sent with reference to rule 26 of the Business Rules shall be entitled to ask that the case should be submitted to its own Minister before disposal. Where such a request is made, the case shall be circulated first to the Minister in charge of the department in which it originated.

(2) Where a case is of extreme urgency and in consequence is not dealt with in accordance with this procedure, it shall be sent at the earliest opportunity to each department concerned which has not already seen it.

(3) Notwithstanding anything contained in this instruction, all cases in which a reference to the Finance Department is necessary under Business Rule 10(1) shall, irrespective of their urgency, be referred to that department before issue of orders or circulation to any Minister.

(4) Where an administrative department proposes not to proceed with a proposal involving expenditure or loss of revenue, the Secretary may without referring the case to the Finance Department, circulate it for orders to the Minister concerned. If however, the Minister does not agree with the administrative department, he will, without setting down at that stage his views on the merits of the proposal ask for the examination thereof by the Finance Department. When a case is circulated to a Minister under this proviso, the Secretary shall draw the attention of the Minister specifically to the above provision.

(5) Where a proposal of the Administrative Department has not been accepted in Finance, but is approved in circulation by the Minister or Ministers concerned including the Finance Minister the draft

proceedings should be seen by the Finance Department before issue and the Finance Department may recirculate the case to the Finance Minister if any important financial aspect has escaped attention.

17. Where it is proposed to make any rules in the exercise of a statutory power which is not subject to the condition of the rules being made after previous publication, the administrative department shall, if the public are likely to be interested in the subject-matter of the rules and if circumstances permit, obtain orders in circulation whether the rules should be published in draft for public criticism.

18. (1) The memorandum referred to in rule 17 of the Business Rules may include extracts of Minutes by the Ministers and the Secretaries and shall contain a paragraph towards the end clearly stating the various points for decision. The memorandum should be self-contained and appendices should be avoided as far as possible. It should be submitted (if time permits) to the Secretary to the Council for scrutiny and approval before circulation to the Minister in charge, who will sign the memorandum after making or ordering such modifications as he considers necessary. The Minister's signature will be typed or printed on the fair copies. After circulating copies of the memorandum to the Ministers and the Governor, the Secretary will send the file in the case to the Secretary to the Council with copies of any act, rules, reports, etc., which may be required for reference at the meeting.

(2) A quorum of more than half the total number of Ministers will be necessary for the transaction of the business at the meeting.

(3) The decisions of the Council shall be treated as confidential.

19. The decisions taken at a meeting of the Council of Ministers at which the Chief Minister was not present shall be given effect to only after the proceedings of the meeting have been communicated to the Chief Minister.

20. Every case containing a proposal for the settlement by the method of conference of a dispute between this Government and an outside authority relating to a matter which is of sufficient importance to require the consideration of the Government as a whole, shall be circulated to all the Ministers for orders together with a note setting out clearly.

(1) the issues for settlement;

(2) the opinion on those issues of the Head of the Department or other subordinate authority concerned, which should be obtained beforehand and placed on record;

(3) the line which it is proposed to adopt in the negotiations; and

(4) the proposals regarding the constitution of the conference and the selection of persons to represent this Government at the Conference.

21. A Secretary may, without submitting the draft to any Minister or to the Governor, direct the issue of any despatch letter, order or reference in any case on which orders have been duly passed in accordance with these instructions:

Provided that—

(a) if a Minister or the Governor has desired that any draft should be sent to him before issue it shall be so sent;

(b) no reference shall be issued from any department on the suggestion of a Minister not in charge of the department without the knowledge of the Minister in charge of it;

(c) where three or more Ministers, to whom a case has been circulated, express views on it which are at variance with one another, the order in the case shall be drafted in accordance with the views of the majority; but it shall not be issued until the Minister or Ministers in the majority have seen the draft order;

(d) where two or more Ministers, to whom a case has been circulated, express views on it which, without being at variance with one another, deal with different points, the views of the Ministers shall, as far as possible, be incorporated in the order;

(e) if a draft is to be sent to a Minister not in charge of the department, it shall be sent first to the Minister in charge of the department, then to any other Minister who is to see the draft and afterwards again to the Minister in charge, if any alteration in the draft is suggested by the other Minister.

CHAPTER II

PROPOSALS FOR LEGISLATION

A. Government Bills

22. Heads of Departments shall, when necessary, submit proposals for legislation in the form of a letter, explaining the necessity and the scope for legislation. The question of giving publicity to the proposals and preparing a draft Bill shall, unless otherwise directed, be left to the Government.

23. (1) In the case of every Bill referred to in Business Rule 53(d) ten copies of the report of every Select Committee on a Bill and of the Bill as amended by the Select Committee shall be forwarded by the Law Department to the Government of India, Ministry of Law, at the time of the presentation of the Report to the Legislature.

(2) Petitions relating to Bills shall be considered in the administrative department concerned unless they are petitions to the Legislature.

(3) All amendments to Bills which are to be proposed by Minister shall be framed by the administrative department in consultation with the Law Department. Notices to the Legislature in regard to proposed amendments shall also be prepared by the administrative department.

(4) The notice for the presentation of the report of the Select Committee on a Bill to the Legislature by the Minister in charge of the Bill shall be prepared by the administrative department and sent to the Legislature Secretariat. A copy of the notice should be sent to the Law Department also.

24. (1) If an amendment proposed to be moved by the Minister in charge of the Bill is one which requires the previous sanction of the President or recommendation of the Governor under the Constitution or in respect of which a doubt arises whether such sanction or recommendation is necessary, the administrative department shall submit the papers to the Governor for orders through the Minister or Ministers concerned, and the Chief Minister.

(2) Where an amendment proposed to be moved by a non-official member of the Legislature is one which requires the previous sanction of the President or recommendation of the Governor under the Constitution or in respect of which a doubt arises whether such sanction or recommendation is necessary and if it appears that no such sanction has been obtained, the administrative department shall bring the matter to the notice of the Minister in charge and the Chief Minister as well as the Governor.

Note.—The administrative department shall consult the Law Department on every question whether a proposed amendment does or does not require the previous sanction of the President or recommendation of the Governor.

B. Private Bills

25. Ten copies of every Bill introduced by a private member in the Legislature which falls within the concurrent legislative list and which is likely to go forward, shall, at some convenient stage after its introduction, be forwarded by the Law Department to the Government of India, Ministry of Law.

26. A copy of every Bill which falls within the concurrent legislative list and which is likely to go forward shall be forwarded by the administrative department principally concerned, to the administrative department of the Government of India dealing with the subject matter of the Bill, at some convenient stage after its introduction. If time permits, the administrative department shall also inform the Government of India of all important amendments to such Bills.

C. All Bills

27. After a Bill is passed by the Legislature and on receipt of information as to the date on which the Bill was passed by the Legislative Assembly, the Law Department shall forward to the Government of India, Ministry of Home Affairs, a copy of the Bill as passed by the Legislature together with information as to the date on which the Bill was passed by the Assembly.

28. The Administrative Department concerned shall send to the Government of India Ministry of Food and Agriculture, the Planning Commission, New Delhi and the Ministry of Home Affairs two copies of every Bill on Land Reforms, as soon as it is published in the Kerala Gazette and before it is introduced in the Legislative Assembly.

29. Ten copies of all Acts assented to by the Governor shall be forwarded by the Law Department to the Government of India, Ministry of Law.

30. (1) When addressing the Ministry of Home Affairs for obtaining the President's assent with reference to Business Rule 57 (2), the Law Department shall simultaneously forward to that Ministry five copies of each of the following papers, namely:—

(i) Bill as introduced with the Statement of Objects and Reasons and Notes on Clauses, if any;

(ii) Report of the Select Committee, if any, on the Bill and the Bill as amended by it;

(iii) Bill as passed by the Legislature.

(iv) Proceedings of the Legislature relating to the Bill or advance proof thereof;

(v) A memorandum explaining the scope of the Bill and embodying a summary of the proceedings of the Legislature relating to the Bills:

Provided that where copies of the advance proof of the proceedings of the Legislature are sent to the Ministry of Home Affairs, the final copies of the proceedings shall be sent to the Ministry as soon as they become available.

(2) The Bill and the connected papers referred to in clause (1) should be forwarded to the Government of India, Ministry of Home Affairs, so as to allow at least a week for examination of the Bill by the Government of India.

Note.—If for any reason a Bill should become law before a certain date, the administrative department should take steps for the introduction of the Bill well in advance of that date and for the passage of the Bill through its various stages, so that after the Bill is

passed by the Legislature, there would be sufficient time for obtaining the President's assent and for publishing the Act in the Gazette before the said date.

31. (1) The administrative department concerned shall as soon as possible send to—

(i) the Ministry of Home Affairs, five copies of every Ordinance or Act relating to public order and jurisdiction and powers of Criminal Courts in the State; and

(ii) the Ministry of Defence, one copy of every Act, or Ordinance or Order passed or promulgated with a view to cope with civil disturbances in the State; and

(iii) the Deputy Secretary and Economics and Statictical Adviser to the Government of India, Ministry of Food and Agriculture, Jaisalmer House, New Delhi, by name, one copy of every Act or Ordinance relating to any aspect of the agricultural economy including co-operation, fisheries, tenancy and land reforms, marketing of agricultural goods, regulation of production of crops, land reclamation, etc.

(2) One copy of the Act assented to by the Governor shall also be forwarded by the Law Department to the Ministry of Home Affairs, together with information as to the number of the Act, the date of assent and the date of publication of the Act in the Kerala Gazette.

D. Ordinances during recess of the Legislature

32. The provisions of Business Rules 44 to 51 shall apply **mutatis mutandis** to all proposals for the issue of an Ordinance under Article 213 of the Constitution.

E. Miscellaneous

33. As soon as a department in charge of a Bill receives notice of a meeting of the Select Committee of the Legislature in respect thereof, it shall intimate the fact immediately to every other department which is concerned with the Bill.

34. Before any motion is brought forward in the Legislature by a Minister to the effect that a Select Committee on a Bill shall sit at a place other than the headquarters of the Government, the Administrative Department of the Secretariat to which the Bill relates shall, consult the Finance Department in regard to the financial implications of the proposed motion in the matter of travelling allowance, etc.

35. The Government of India shall be informed of any difficulties encountered in the working of the laws falling within the concurrent legislative field in order that legislation in that field shall as far as possible, be undertaken only after consultation between the State and Central Governments, the method of consultation to be either by correspondence or conference, according to the importance of the legislation or the urgency of the case. Correspondence in this regard shall be between the Administrative Departments concerned of the State and Central Governments.

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CHAPTER III

MISCELLANEOUS

36. It is the duty of the Secretary to take efficient steps for the prompt despatch of business in accordance with these instructions. He may meet periodically—say once in a month—Heads of Departments concerned to discuss pending files. Definite decisions should be taken at these meetings.

37. Consultation with other departments should wherever practicable, be effected by personal discussion between responsible officers of the departments concerned and the result of such discussion should be recorded in a note agreed between those officers.

38. Officers of all ranks should take responsibility in settling minor cases without submitting them to higher authority and no cases should reach a Secretary or Minister except those of real importance.

39. No departmental file should be referred to another department except by direction of an Officer of the rank at least of Deputy Secretary; but files of a routine nature may be marked to other departments by Assistant Secretaries and Under Secretaries. Important files should be seen by the concerned Secretary, Additional or Joint Secretary before they are referred to another department for remarks.

40. Before a file is sent to another department, the proposals should, wherever possible, be embodied in the form of a draft, and all routine notes belonging to the department which sends the file should be removed.

41. When a case is sent for the remarks of another department unaccompanied by a draft, the department of origin shall state, with as much precision as possible, the specific points on which the remarks of the other department are invited and the department referred to shall avoid repeating in its notes what is already sufficiently stated in the notes of the department of origin.

42. Where it is necessary to consult more than one department on a case, such consultation should take place simultaneously, except when the multiplication of documents to be sent would involve an excessive expenditure of time and labour or when the occasion for consulting the second department does not arise until the result of consulting some other department is known. Where simultaneous references are made to more than one department, the file may, if desired, be sent to one of such departments, communication with the other department being by written memorandum except in ceases which can be disposed of by verbal consultation.

43. When a case is sent to another department for opinion and that other department considers that an outside officer should be consulted it shall state the fact in the note file and return the case to the department of origin which will issue the reference.

Note.—When a department calls for any information from other departments for examining a general question, references, if any, to the outside officers should be issued by the administrative department concerned.

44. When a department of Government gives an opinion to another department on a case or in reply to a separate U.O. reference the advising department shall record succinctly the reasons for the advice given and not merely say whether they agree or disagree.

45. When a head of a department has submitted a scheme for the approval of the Government and it is considered necessary that other officers should be consulted on the scheme, the matter shall be referred back to the head of department that submitted the scheme with the request that he should consult the other officers concerned either individually or by a conference and after the various points have been discussed with them submit final proposals to Government.

46. When a case has been sent for acceptance in another department and the department of origin, without circulating the case to any Minister, proposes to issue orders upon it which differ materially,

from the draft or proposals accepted in the other department, the case shall be sent a second time to that department before orders are issued. Where, however, such a case has been decided in circulation, a reference back to the department or departments to whom the case was originally sent shall not be necessary, unless—

(a) there is any doubt as to the form of the order to be issued, in which case the draft shall be sent to the other department or departments before issue; or

(b) it is essential that the other department or departments should be made aware of the orders passed in circulation, in which case the file may be sent to the other department or departments after issue of the order.

47. The Finance Department shall have the following powers and responsibilities:—

(a) it shall be responsible for the safety and proper employment of all funds;

(b) it shall advise on the financial aspect of all transactions relating to loans granted by the Government;

(c) it shall have power to prescribe for the guidance of other departments, financial rules, including rules relating to financial procedure and the application of the principles of sound finance, and to ensure that suitable accounts, including commercial accounts, wherever necessary, are maintained by other departments and establishments subordinate to them;

(d) in connexion with the annual financial statement and supplementary statements of expenditure, it shall have power to prescribe the units of appropriation to require the departments to furnish material on which to base the estimates and to examine and advise on all schemes of new expenditure for which it is proposed to make provision in the estimates and to decline to provide in the estimates for any scheme which has not been so examined.

(e) on receipt of a report from the audit officer to the effect that expenditure for which there is no sufficient sanction is being incurred, to require the department concerned to take steps to obtain sanction or that the expenditure shall immediately cease;

(f) to bring to the notice of the Committee on Public Accounts all expenditure which has not been duly authorized and any financial irregularities;

(g) it shall advise departments responsible for the collection of revenue regarding the progress of collection and the methods of collection employed;

(h) it shall have power to decide to what in particular departments the audit of receipts should be enforced.

48. Administrative departments of the Secretariat shall consult the Finance Department before issuing orders on any of the following matters:—

(1) Proposals for the delegation of financial powers to subordinate authorities.

(2) Reports of financial irregularities made by the Comptroller or administrative authorities.

Note.—Cases of financial irregularities in which a reference to the Kerala Public Service Commission or the Union Public Service Commission is necessary should be sent to the Finance Department before making such a reference to the Commission and also after the recommendation of the Commission is received.

(3) Audit reports of the Examiner of Local Fund Accounts when the reports mention serious irregularities or when the administrative department differs from the Examiner or when the Examiner specially requests that the report should be seen by the Finance Department.

49. Whenever a matter has to be referred to the Comptroller, the particular point or points on which his remarks are invited should be definitely stated. Cases containing proposals to relax existing rules or to grant concessions not strictly admissible under the rules in force should not ordinarily be referred to him at all. In such cases, the administrative

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department concerned should in the first instance consult the Finance Department and if the Finance Department advises that the Comptroller should be consulted on any particular point, a reference should then be made to the Comptroller accordingly.

50. When a scheme has to be formulated for carrying out proposals, it shall be the duty of the Secretariat to think out the problem and its solution before any reference to authorities outside the Secretariat is made. When such a reference is made the lines on which the scheme should be drawn up or the exact information that is required should be clearly indicated.

References to outside authorities should be made only when the information required is not available in the Secretariat.

51. Any report which reflects adversely on the conduct of an officer originally appointed by the former Secretary of State or a member of the Indian Administrative Service or an officer holding a post included in the cadre of those services shall, immediately on receipt in any department of the Secretariat, be communicated to the Public (Special) Department. Any case in another department which relates to the conduct of any such officer shall be sent to the Public (Special) Department before circulation, and a copy of the orders finally passed shall be communicated to that department.

52. All orders which involve temporary or permanent additions to posts in the Indian Civil Administrative Cadre, Kerala or to posts of Judges of the High Court or which involve the keeping in abeyance or the abolition of any such post shall be issued in the Public (Special) Department even though the desirability of making the proposed change is a matter for previous consideration in another department of the Secretariat. All correspondence with the Government of India on these subjects shall be dealt with in the Public (Special) Department.

53. The Public Works Department shall consult the administrative departments concerned before sanctioning reappropriations from allotments made in the budget estimates for works relating to those departments.

54. Administrative departments shall consult the Public Works Department before issuing orders exempting officers from occupying Government quarters provided for them.

55. A case involving the use of lands within port limits shall be dealt with in the Public Works Department or in the Revenue Department according as the purposes for which the land is required are marine or non-marine, but each department shall consult the other before orders are issued.

56. An application for the construction or extension of a jetty on the foreshore of a port shall be dealt with in the Public Works Department, the draft order being forwarded to the Revenue Department for acceptance before it is issued.

57. Applications for the free supply of Government of India publications are dealt with in the Education Department. Any such application received in any other department of the Secretariat should be transferred to the Education Department for disposal.

58. All orders of recognition of service associations should be issued in the Public Department.

59. Orders on proposals affecting the administration of justice and particularly on proposals to be financed from the appropriations in the Budget Estimates under the head "Administration of Justice" e.g., creation or abolition of sub-magistrates' courts, employment of special stipendiary magistrates or of administrative establishments of magistrates, should be issued after consultation with the High Court:

Provided that orders on proposals of a comparatively unimportant nature may in cases of urgency be issued without such consultation, copies of such order being sent subsequently to the High Court.

60. Orders sanctioning assignments of land or land revenue should be issued in the Revenue Department.

61. Questions relating to general policy on land acquisition shall be a subject to be dealt with by the Revenue Department. But steps towards acquisition of land shall be taken by the Departments of the Secretariat which require the land. Issue of preliminary notifications, declarations etc., as required by statute shall be done by the concerned Administrative Departments. When notifications have to issue under the Survey and Boundaries Act, as a result of land acquisitioned, the Department which issues orders relating to the land acquisition shall also issue the notification under the Survey and Boundaries Act.

When it is proposed to acquire land on behalf of a private institution or body (e.g., for purposes of a school under private management), the case should be sent to the Revenue Department before the publication of the preliminary notification in order that the Revenue Department may examine the terms and conditions subject to which the land after acquisition should be alienated to the private institution or body. When the terms and conditions have been settled and accepted by the Revenue Department, the notification and the declaration may be issued in the administrative department concerned without reference to the Revenue Department.

When it is proposed to acquire land for any Company, the draft of the agreement to be entered into by the Company shall be sent to the Revenue Department for scrutiny before the Company is required to enter into that agreement.

The concurrence of the Revenue Department may be presumed in respect of all orders appointing officers to perform the duties of a Collector under the Act, provided that the general orders issued by the Revenue Department as to the classes of persons to be so appointed are observed.

The concurrence of the Revenue Department should however, be obtained whenever it is proposed to employ the urgency provisions of the Land Acquisition Act.

62. All orders sanctioning the defence at the public expense, of suits or proceedings brought against Government servants for acts done in their official capacity should be issued in the Law Department. The department to which the Officer belongs should always see the case before issue.

63. All files in which the Advocate-General has expressed opinion on questions of Law should be sent to the Law Department for perusal and return and if in any case the file itself cannot conveniently be sent, a copy of the opinion recorded therein shall be sent.

64. When it is proposed to issue as a State publication any pamphlet bearing on a Central subject, the department of the Secretariat concerned shall refer the pamphlet in draft to the Department of the Government of India concerned before it is finally printed and issued.

65. The following instructions shall be followed in dealing with cases in the Secretariat;

(a) A file should ordinarily contain only three sections of papers—notes, correspondence and miscellaneous papers—the last will be at the bottom of the file. Every paper should be attached either to the current file or to the note file and there should be no loose papers.

(b) It shall always be assumed that the paper under consideration will be read by the officer to whom it is submitted. Consequently no paraphrase or reproduction of the contents of the paper shall be permitted in the notes. A precis of the contents of a single paper shall be made only when it is of great length and complexity, and neither such a precis nor a precis of the contents of the file or history of the case shall ordinarily be prepared without the orders of an officer. When a file is submitted for orders, the proposals therein should, wherever

possible, be embodied in the form of a draft. The draft, including note for Council of Ministers should be prepared first and the note should explain the draft.

(c) In some cases perusal of the paper under consideration will be sufficient and nothing is required beyond a brief suggestion for action. When a note is required it should be a statement of the case showing, more or less in detail according to the importance and stage of the case, the question for consideration, the circumstances leading up to it, the rules and the precedents bearing on it and suggestions for action. The reproduction in a note of verbatim extracts from the paper under consideration shall ordinarily be avoided. The points requiring orders should be set out clearly.

(d) Where there are in a single case several points for orders which, in the opinion of the Secretary, Under Secretary or Assistant Secretary can be more conveniently dealt with separately than in a continuous note, or a Minister directs by general or special order that such a course should be adopted in any case or class of cases submitted or to be submitted to him, each point shall be separately noted on, the Under Secretary and the Secretary noting after the office note on each point, and space being left after the Secretary's note in each case for the Minister to note. While the notes on each point should begin on a fresh sheet of paper, such separate notes may, if necessary be preceded by notes dealing with the subject as a whole and not with the individual points for orders e.g. with matters of principle.

(e) Not more than one note shall be submitted by the office on each case, or on each point for orders, where the notes are divided under clause (d), the Superintendent of the branch or section rewriting or modifying the clerk's note if he cannot accept it, and the Assistant Secretary or Under Secretary doing likewise if he cannot accept the Superintendent's note.

(f) It is not the function of clerks and Superintendents when noting, to offer opinions and suggestions unless they are specifically founded on statute rule or precedent or are clear from the nature of the case. Criticism and suggestion,beyond these limits, are the functions of the higher officers of the Secretariat.

(g) Manuscript or typewritten notes shall be on paper of foolscap size with one-fourth margin and on both sides of the paper. References shall be placed in the margin, and no note shall be written in the margin unless it is very brief.

(h) Where a case is of such importance that the current file and notes will in due course be printed and there is sufficient time, the current file and notes if bulky shall be printed before the case is sent to a Minister.

(i) All notes written in a file which are not directly relevant to the subject-matter of that file should be treated as routine notes which will neither be printed nor entered into the general note; as for example notes in connection with an officer's requisition for further information from office.

(j) When a new paper is received, and there is already a file on the subject, it should be added to the correspondence section of that file. If, however, it is a note by a higher officer or a minute, it should be added to the note file. If the communication contains in the margin any note or direction by a higher officer, it should be copied on to the note file below the entry relating to its receipt and further noting should be continued below. Notes should not be written on the communication itself.

(k) There are occasions when a number of files are opened to deal with different aspects of the same question. Attempts should be made to club these files. Where action on the same matter is taken in different departments, there should be references in each file to the files of the other department.

(1) The signature at the end of a note of any officer of and above the grade of Assistant Secretary should be legible and should indicate the officer's designation.

66. When an intermediate reference is issued, a definite time-limit for receipt of replies should be specified in the reference and on the expiration of that period the papers should be put up to the Secretary concerned who should decide whether to wait for replies which were still due or to issue further reminders or to proceed to disposal. Unless in any case it is specially necessary to wait for all the replies, the papers should be disposed of without further delay, mention being made in order of the officers who have failed to reply to the reference.

67. (1) Notes written in one department and sent to another shall not be communicated to an officer outside the Secretariat without the consent of the department concerned.

(2) Notes written by a Minister or by the Governor shall not be communicated to any officer outside the Secretariat without the permission of the Minister or the Governor, as the case may be. Such permission will, however, not be necessary where the notes are of a routine character and do not contain an expression of opinion by the Minister or the Governor.

68. Orders and notes by the Governor and the Ministers shall form part of the record in the case.

69. When an order is drafted as the result of a decision of the Council of Ministers in regard to a matter which has not been subjected to inter-departmental circulation, the draft order shall be circulated for acceptance to all the departments of the Secretariat concerned. If the matter is of extreme urgency, the draft may be circulated after issue.

70. In dealing with the recommendations of important special committees or commissions of inquiry, the normal procedure should be to place a qualified officer of suitable standing and with as independent a position as possible, on special duty for the purpose

of obtaining the necessary decisions of Government thereon, of carrying through the requisite consultation with Departments of Secretariat and subordinate officers and of seeing that such recommendations as are approved are brought into operation.

When work in such nature has to be done, it will be the duty of the Secretary concerned to bring to notice the desirability of placing an officer on special duty.

71. Orders and Proceedings of Government shall be authenticated in the manner prescribed in rules 11 and 12 of the Kerala Government Rules of Business. Copies of such orders and proceedings may be authenticated by the Superintendent in the department concerned as follows:—

By order of the Governor,
A. B. C.,
Secretary to Government.

(True copy/extract)

Forwarded to X. Y. Z.

(By order)

D. E. F.,
Superintendent.

The signature A. B. C. shall be printed or typewritten or copied, the signature D. E. F. being the actual signature of the authenticating officer.

Note:—Where the body of a Government Order or Proceedings specifically refers to the Governor, the words "By order of the Governor" need not be added at the end of the copy of the order.

72. Communications addressed to the Reserve Bank of India authorising the return of securities or the purchase or sale of securities shall be signed by a Secretary to Government, which expression shall be deemed to include a Joint Secretary, Additional Secretary, Deputy Secretary, Under Secretary and Assistant Secretary to Government.

73. Circulation of papers to Ministers when they are on tour shall be in accordance with any instructions which they may issue.

74. Notes on addresses to be presented to the Governor, or on points raised in interviews with him, or prepared for his use in connection with any public speech, shall be submitted to him through the Minister or Ministers concerned.

75. Members of deputations should understand that any discussions, with officers or Members of Government to which they may be parties are confidential and that no account of the discussions or of the decisions arrived at should be published without the previous consent of the Government.

76. The following procedure shall be observed in referring any matter to the Kerala Public Service Commission:—

(1) All such references shall be addressed to the Secretary to the Commission by the administrative department of the Secretariat concerned in the form of an official letter with which all relevant papers or copies of papers should be forwarded.

(2) Secretariat note files should on no account form part of the records sent to the Commission.

(3) When the Commission has arrived at a conclusion, they will communicate their recommendation to the department which referred the case.

(4) Where it is proposed not to accept the advice of the Commission for reasons not before the Commission when their recommendation was made, the Commission will ordinarily be given a reasonable opportunity of reconsidering their opinion, and if necessary, of making a fresh recommendation.

Note.—Special care should be taken to ensure that until the Commission's advice has been obtained and a decision has been reached by the Government in the light of it, no language is used in any communication issued in connection with the case which is capable of being interpreted as implying that the Government have formed a settled opinion on the merits of any part of the case.

77. Departments of the Secretariat may have to consult the Commission on the following matters:—

(a) with regard to rules of recruitment;

(b) with regard to selection of individual candidates;

(c) on disciplinary matters; and

(d) on other matters including, in particular, cases where consultation with the Commission may not be obligatory but is considered desirable.

In cases relating to matters falling under (a) and (d) above, departments of the Secretariat should prepare the necessary draft letter to the Commission and then consult the Public (Services) Department. In regard to cases falling under (b) above, it is not necessary to route the references to the Commission through the Public (Services) Department except where the recruitment regulations have not yet been settled. In regard to matters falling under (c) above also, i.e., disciplinary cases, it is not necessary to consult the Public Department except where the case presents special features.

In cases which are referred to the Public (Services) Department, that department should see that the views of the Government communicated to the Commission from time to time are consistent with one another.

Any views not accepted by the Public (Services) Department should not be communicated to the Commission without obtaining orders in circulation and without intimation to the Public (Services) Department.

78. In disciplinary matters in which the advice of the Kerala Public Service Commission is to be sought, the following procedure will be adopted:—

As soon as the case is received in the department concerned, it will be examined to see whether the file is complete and in order and whether the statutory provisions relating to disciplinary enquiries have been complied with, but no officer below the rank of Assistant Secretary shall note on the merits of the case. If the case is incomplete or defective or any

point in the case appears to require further elucidation, the Secretary will refer the case back to the Head of the Department for rectification of the defects or further information. When all defects have been rectified and the case is prima facie in order and complete, the Secretary of the department will refer it to the Commission. As soon as the case is received back from the Commission with its advice, the Secretary will ordinarily circulate the case for orders without further noting. If, however, there appears to the Secretary to be good and sufficient reasons to differ on any point from the advice of the Commission, it will be open to him to submit a note giving those reasons. No officer below the rank of Secretary shall be permitted to comment on the advice tendered by the Commission. If a case is one arising out of financial irregularities, it shall be sent to the Finance Department, both before making a reference to the Commission and also after the recommendation of the Commission has been received.

79. No department of the Secretariat shall consult the Kerala Public Service Commission on any point on which such consultation is not necessary under any statutory provision or under the Conventions adopted by the Government in their relations with the Commission, except when orders to that effect are taken in circulation after the Public (Services) Department has seen the case.

80. Whenever the need arises for the making of an appointment or class of appointments otherwise than in consultation with the Kerala Public Service Commission, the normal procedure should be that laid down in the latter part of regulation 4 (b) of the Kerala Public Service Commission (Consultation) Regulations, 1957. If, in any case, there is a difference of opinion between a department and the Kerala Public Service Commission as to the expediency of excluding a particular appointment or class of appointments from the purview of the Commission, the question should be considered whether a regulation may be issued under Article 320 (3) of the Constitution for giving effect to the exclusion. If it is considered

that such regulation should be issued, the department concerned should, when submitting the case to the Governor through the Chief Secretary, Minister concerned and the Chief Minister for orders, state clearly the particular circumstances which justify exclusion of the appointment or class of appointments from the purview of the Commission and the objections raised by the Commission to such exclusion. If the Governor orders that a regulation should be issued, the case should be sent to the Public (Services) Department for the issue of the necessary regulation.

81. When a petition addressed to the Governor by a person who is or was in the service of Government in respect of a matter affecting him as a Government servant and in whose case the Government have imposed any punishment is received in the Secretariat, the Secretary in the department administratively concerned shall forwrad it to the Governor through the Ministers concerned and the Chief Minister. In doing so, the Secretary in the department concerned shall point out whether or not the petition complies with the rules and orders governing the submission of such petitions (see Appendix III), and if the petition complies with such rules and orders, shall furnish a statement setting out briefly and accurately the facts and history of the case with comments on the merits thereof. The personal file of the petitioner shall also be put up. It should be examined in the department administratively concerned in consultation with the Public (Services) Department, if the case involves interpretation or application of any of the service rules or orders, and with the Finance Department, if it involves any financial issue, and the note shall be submitted to the Governor through the Minister or Ministers concerned and the Chief Minister. If the Governor desires to have the advice of the Kerala Public Service Commission on the petition, the Secretary in the department administratively concerned shall obtain the remarks of the Commission and forward them to the Governor through the Minister or Ministers concerned and the Chief Minister.

82. (a) If, in any case, it is proposed to reject or to deviate from the advice of the Kerala Public Service Commission on grounds which were not before the Commission, when it made its recommendation, the Commission shall, if possible be given a reasonable opportunity of considering those grounds and making a fresh recommendation before orders are issued.

(b) In any case in which the advice tendered by the Commission is rejected or deviated from, the administrative department concerned shall communicate the reasons for such rejection or deviation to the Commission.

(c) Where it is proposed to reject or to deviate from the advice of the Kerala Public Service Commission, the file shall be sent to the Public (Services) Department before circulation.

83. Before orders are issued amending the Governor's Regulations issued under Article 318 of the Constitution of India or the rules regulating the procedure to be observed by the Kerala Public Service Commission and the relations of the Commission with the Government and subordinate authorities, the Chairman of the Commission shall, unless the amendment is in accordance with recommendations made by the Commission, be informed demi-officially of the orders proposed to be issued to enable him, if the Commission thinks fit, to lay the Commission's views personally before the Chief Minister.

84. Copies of orders in the following cases shall be sent to the Kerala Public Service Commission by the Administrative Department of the Secretariat concerned:—

(a) Orders of appointment of candidates selected in consultation with the Commission; and

(b) Final orders in disciplinary and other matters in respect of which the Commission was consulted.

85. A copy of all confidential circulars issued to Collectors of districts, whether by telegram, demi-official letter, official memorandum or proceedings of

Government shall invariably be communicated to the Board of Revenue for the information of the Members of the Board.

86. A copy of every administration report shall be sent to the Chief Secretary before publication.

87. (i) Before orders are issued in any department negativing or materially modifying the recommendations of the Head of a Department in any matter of importance, the Head of the Department shall, unless the matter is of urgency, be informed unofficially of the proposed order to enable him, if he thinks fit, to lay his views personally before the Minister in charge or the Chief Minister provided that he shall inform the Minister if he intends to lay his views personally before the Chief Minister.

(ii) The following are the Heads of Departments to whom this Instruction shall apply:—

(1) The Board of Revenue (all departments).
(2) The High Court.
(3) The Director of Public Instruction.
(4) The Director of Collegiate Education.
(5) The Director of Health Services.
(6) The Inspector-General of Police.
(7) The Inspector-General of Prisons.
(8) The Chief Conservator of Forests.
(9) The Director of Industries and Commerce.
(10) The Director of Agriculture.
(11) The Registrar of Co-operative Societies.
(12) The Inspector-General of Registration.
(13) The Director of Public Health Engineering.
(14) The Chief Engineers.
(15) The Labour Commissioner.
(16) The State Port Officer and Additional State Port Officer.
(17) The Director of Local Bodies.
(18) The Director of Animal Husbandry.
(19) The Director of Fisheries.
(20) The Director of Transport.
(21) The Director of Harijan Welfare.

88. The ordinary channel of Communication between the Government and a subordinate authority shall be through the Head of the Department concerned.

89. The Head of Department or other officer should not normally correspond with Ministers directly. But all communications from them to Government should be addressed to the Secretary to Government in the Administrative Department concerned. When a Minister calls for any information directly from any officer, his report should be routed through the Head of the Department (where the reporting officer is himself not the Head of the Department) and the Secretary to Government concerned, submitting a copy at the same time to the Minister direct. If the officer concerned is not directly under the administrative control of the Minister who calls for information, he should also send a copy of his report to the Minister concerned simultaneously.

"Heads of Departments and subordinate officials should not, *suo moto,* seek to meet Ministers and discuss with them official matters. However, if they are sent for by Ministers, they should attend as directed, but should invariably inform his immediate superior or in the case of a Head of Department, the Secretary to Government before proceeding to meet the Minister.

"Provided that, in emergent cases, a report to the immediate official superior or Secretary to Government as the case may be, may be given after the interview is completed".

90. Officers concerned should not take any action to implement the oral orders of Ministers, unless these instructions relate to a matter of such emergent nature as to require immediate action, until written confirmation is received from the Secretary of the appropriate Administrative Department. When verbal or telephonic orders are received from a Minister or other superior authority, the receiving officer shall, as soon as practicable, reduce the order into writing and report it to the Secretary for obtaining ratification.

"Where the Department is also in the Minister's portfolio, the Secretary will immediately obtain confirmation of the orders from the Minister and issue orders forthwith if no consultation with other Departments is involved. But if there are financial commitments which require consultation with the Finance Department, or other issues which make consultation with another Secretariat Department necessary, it shall be his responsibility to bring that fact to the notice of the Minister and take action under the Secretariat instructions.

"Where the subject matter is *not* in the portfolio of the Minister concerned, the Secretary of the Department, on receipt of the record of instructions, will bring the instructions first to the notice of his Minister and then take action as indicated above in accordance with the Rules of Business and Secretariat instructions."

91. It shall be the duty of a Secretary to Government to see that all cases sent in circulation by him are promptly returned to his department.

92. Secretaries to Government shall bring to the notice of the Chief Secretary every case of breach of statutory rules which on discovery was not rectified immediately. The Chief Secretary shall bring such cases to the notice of the Governor.

93. The Governor, acting on the advice of his Ministers may, from time to time, if he thinks fit, permit any departure from these instructions.

APPENDIX I

INSTRUCTIONS REGARDING THE SUBMISSION AND RECEIPT OF PETITIONS AND OTHER PAPERS OF THE SAME CLASS ADDRESSED TO THE GOVERNMENT OF KERALA

I. *Definitions.*—In these instructions—

(1) 'Government' means the Government of Kerala.

(2) 'Petition' includes memorials, letters and applications of the nature of petitions.

II. *Scope of instructions.*—(1) Save as hereinafter provided, these instructions shall apply, so far as may be, to all petitions addressed to the Government.

(2) They shall not apply to—

(a) petitions which are appeals preferred by persons holding posts under the administrative control of Government under the rules governing the conditions of their services or under the Constitution of India;

(b) petitions relating to Bills pending before the State Legislature; such petitions are governed by the Standing Orders of the Legislature;

(c) petitions submitted by, or on behalf of, convicts under sentence of death; and

(d) petitions addressed to the Governor by persons who are or were serving in posts under the administrative control of this Government in respect of matters affecting them as Government servants; such petitions are governed by the special instructions issued by the Governor in that behalf.

(3) They shall not affect any rules or orders in respect of representations submitted by recognised associations of Government servants.

III. (1) A petition may be either in manuscript or typescript or in print.

(2) Every petition shall be authenticated by the signature of the petitioner, or, when the petitioners are numerous, by the signatures of one or more of them.

IV. Every petition shall—

(a) contain all materials statements and arguments relied upon by the petitioner;

(b) be complete in itself;

(c) if any recorded order of a public authority is complained against, be accompanied by a copy of the order and by a copy of any order in the case passed by a subordinate authority together with a copy of the petition to such authority; and

(d) end with a specific prayer.

V. Any person having cause of complaint against the Government shall in the first instance seek redress from the local authority who, if unable to grant the redress sought, shall pass an order in writing to that effect. If dissatisfied with this decision, the petitioner shall be at liberty to address the Board of Revenue, Court, or other superior authority by which the local authority is controlled; or he may address the Government in cases wherein there is no such controlling authority.

Communications intended for the Government shall be addressed to "the Government of Kerala" or to a "Secretary to the Government of Kerala". A communication addressed to the Governor or to a Minister is not addressed to the Government unless the Governor, or the Minister sees fit to send it to a Secretary to Government.

VI. The Government will not receive a petition on any matter, unless it shall appear that the petitioner has first applied to the local authority and also to the Board of Revenue or other controlling authority, where such exists.

VII. In order to enable the Government to enforce the foregoing rules without injustice or hardship to complaining parties, all heads of offices shall understand that a party affected by an order is entitled to have, on application, a copy of such order, which, in all cases except those where no appeal lies, shall contain a statement of the grounds of the decision. This shall be furnished to him on plain paper and without payment.

VIII. The Government will receive petitions only from principals; communications running in the name of a pleader or agent will receive no attention. Anonymous petitions will be totally disregarded and destroyed on receipt.

IX. Resolutions submitted by associations and other similar bodies will receive no attention; any such body wishing action to be taken on its representation should submit them in the form of a petition stating the grounds and circumstances of each case.

X. As the Government never interfere with the distribution of subordinate appointments, applications for situations in the gift of appointing authorities will remain unnoticed.

XI. Every Government servant wishing to petition the Government shall do so separately:

Provided that nothing in this instruction shall apply—

(i) to a joint representation on one and the same subject signed by several Government servants; and

(ii) to representations submitted by recognised associations of Government servants in accordance with such rules as may, from time to time, be prescribed by the Government.

XII. Every person in civil employment and every person who has been in civil employment shall, if he desires to petition the Government in respect of such employment, or in respect of the termination of such employment, submit a separate petition on his own behalf.

XIII. Every petition from, a person who is or was serving in a post under the administrative control of Government shall be addressed to a Secretary to Government and be submitted through the head of the office or department to which he belongs or belonged.

XIV. The head of the office or department shall, unless empowered under instruction XIX to return or withhold it, at once forward the petition to the

Secretary to Government in the department concerned through the ordinary official channel and may make such remarks as he may consider necessary in regard to the accuracy of the statements made and inferences drawn in the petition; he shall also forward such records, not submitted by the petitioner, as should properly be consulted in order to the due disposal of the petition.

XV. Petitions addressed to the Government will be liable to summary rejection in the following cases:—

(1) when the petitioner has not complied in full with the above instructions;

(2) when a petition is illegible or unintelligible or contains language which in the opinion of the Government is disrespectful or improper;

(3) when a previous petition has been disposed of by the Government of Kerala or the Government of India and the petition discloses no new facts or circumstances which afford grounds for a reconsideration of the case;

(4) when the petition is a mere application for relief, pecuniary or other, which is—

(a) presented by a person manifestly possessing no claim or advancing a claim of an obviously unsubstantial character; or

(b) so belated that its consideration is clearly impossible;

(5) when the petition is—

(a) an application for employment in posts under the administrative control of Government not made in pursuance of any rule or announcement regarding applications for such employment; or

(b) a request for exemption from the provisions of any law or rule prescribing the qualifications to be possessed by persons serving in posts under the administrative control of Government or by persons engaging in any profession or employment;

(6) when the petition is an appeal from a judicial decision unless such petition—

(a) is an appeal from a judicial decision in a case in which the Government have reserved any discretion of interference;

(b) is an appeal from a judicial decision in a suit to which the Government were a party; or

(c) is a prayer for the suspension or remission of a sentence under Chapter XXIX of the Code of Criminal Procedure, 1898 (Central Act V of 1898);

(7) when the petition is a representation against a decision which is declared to be final by any law or statutory rule;

(8) when the law provides a different or specific remedy in respect of the subject-matter of the petition whether or not any period of limitation prescribed for the prosecution of such remedy has expired;

(9) when the petition is submitted otherwise than in accordance with any rule, order or contract such as is referred to in sub-clause (a) of clause (14), by a person serving in a post under the administrative control of the Government with regard to his prospective claim to pension;

(10) when a petition is an appeal against a failure by the Government to exercise a discretion vested in them by law or rule;

(11) when the action desired in a petition is in the nature of a favour and not of a right;

(12) when the petition is a representation against an order of a subordinate authority communicated to the petitioner more than six months before the submission of the petition and no satisfactory explanation for the delay is given;

(13) when the petition is a representation against the discharge of a person—

(a) appointed on probation, during such probation;

(b) appointed, otherwise than under contract to hold a temporary appointment, on the expiration of the period of such appointment; or

(c) engaged under contract in accordance with the terms of such contract;

(14) when the petition is a representation by a Government servant against an order—

(a) from which he has exercised, or possesses a right of appeal under—

(i) rules or orders regulating his conditions of services; or

(ii) the terms of his contract of service;

(b) passed by any authority in the exercise of appellate or revisional powers conferred by any rule, order or contract such as is referred to in sub-clause (a);

(15) when the petition is a representation relating to an order of the Government refusing to grant or to recommend—

(a) a special pension;

(b) a compassionate pension; or

(c) any pecuniary or other concession to which the petitioner is not entitled under any law or statutory rule;

(16) when the petition is a representation with regard to any matter connected with the official prospects or position of a person serving in a post under the administrative control of the Government and is not submitted by such person;

(17) when the petition relates to a subject on which the Government are competent to pass orders and no application for redress has been made by the petitioner to the Government;

(18) when the petition is a representation against the action of a private individual or of a private individuals regarding the private relations of the petitioner and such individual or body; and

(19) when the petition, not being a petition such as is referred to in the exceptions in clause (6), relates to matters in which the petitioner has no direct personal interest.

XVI. The Government will, when a petition is rejected under Instruction XV, inform the petitioner of the rejection and the reasons therefor.

XVII. Where a petition has already been rejected under Instruction XV and a further petition on the same subject is submitted which does not contain facts not already brought to notice, such other petition will be disregarded.

XVIII. "When a petition is received in the Secretariat the Secretary shall decide whether it is necessary to consider it in the Secretariat or it may be remitted to a Head of Department. All petitions dealing with matters clearly within the powers of the Head of Department shall be sent to him, in original for disposal.

It is only on important matters that reports from a Head of Department shall be called for. The report of the Head of Department shall be called for only on the orders of an officer of Joint Secretary's rank or above.

XIX. The authorities named below are vested with discretionary power to return for correction or rectification petitions addressed to the Government and forwarded through them in the following cases:—

(a) when a petition is illegible or unintelligible;

(b) when a petition runs in the name of a pleader or agent instead of in the name of the principal;

(c) when a petition from a person who is or who was serving in a post under the administrative control of the Government, is addressed otherwise than in accordance with these instructions.

The High Court.
The Board of Revenue.
The Director of Health Services.
The Chairman, Kerala Public Service Commission.
The Secretaries to Government.
The Chief Conservator of Forests.
The Chief Engineers.
The Director of Agriculture.
The Director of Public Instruction.
The Director of Collegiate Education.
The Inspector General of Police.
The Inspector General of Prisons.

The Director of Public Health Engineering.
The State Port Officer and Additional State Port Officer.
The Superintending Engineers.
The Labour Commissioner.
The Director of Fisheries.
The Director of Industries and Commerce.
The Director of Animal Husbandry.
The Inspector General of Registration.
The Registrar of Co-operative Societies.
The Collectors.
The District and Sessions Judges.
The Superintendent, Government Presses.
The Chairmen of Municipal Councils.
The Director of Transport.
The Director of Harijan Welfare.

APPENDIX II

INSTRUCTIONS REGARDING SUBMISSION OF REPORTS ON MATTERS OF POLITICAL OR ADMINISTRATIVE IMPORTANCE

The Government of India in the Ministry of Home Affairs require the earliest possible information on the following topics unless they are minor occurrences:—

(1) Riots which involve a serious breach of the public peace;

(2) Use of troops in aid of the civil power, to suppress disturbances;

(3) Outrages which have a political aspect;

(4) Calamities, such as floods or earthquakes, which cause serious damage to life or property.

Collectors are required to report immediately to the Chief Secretary to Government, Public Department, by telegram or by radio message, the occurrence in their districts of any events of the foregoing description. Until the situation becomes normal they should send daily telegraphic reports of further developments. The telegraphic reports should invariably be followed by detailed reports in duplicate on the subject.

In cases where troops are used in aid of civil power to suppress disturbances, the telegraphic report should include information on the following points:—

(1) date of occurrence;
(2) causes for the disturbance;
(3) whether troops were called out;
(4) whether fire was opened by
  (a) troops and|or
  (b) police; and
(5) casualties.

Note:—Any rioting which involves the use of fire-arms or any communal riot which involves the death of a person will be regarded as a serious breach of the public peace. In the latter case and in the case of other riots not involving the use of fire-arms Collectors should exercise their discretion in deciding whether the riot was a serious one or not for purposes of these instructions.

2. It should be understood that the telegraphic and written reports which the Collectors send to the Chief Secretary to Government with reference to the instructions in the foregoing paragraphs are primarily intended to enable the Government to furnish the Government of India with the information required by them. If it becomes necessary to follow up the report with further correspondence on the subject, such correspondence should be addressed to the Secretary to Government in the department directly concerned.

Collectors should repeat to the Private Secretary to Governor, the telegraphic and written reports which they send to the Government, in all cases of (i) riots, communal or otherwise, (ii) serious disturbances of the public peace; (iii) outrages of any kind (iv) use of troops in aid of the civil power, or (v) natural calamities.

3. As the Military authorities are interested in all cases which come under the head "outrages which have a political aspect", the Collector will report such occurrence at places where troops are stationed, to the Officer Commanding the Station, or at places where there are no troops, to the General Officer Commanding Headquarters, Madras area. The detailed report to the Government need not however be communicated to the Local Military authorities unless their co-operation is sought. If in any case, it is considered necessary to communicate further details to the Military Authorities, this communication will be made by the Government in the Public Department to the General Officer Commanding-in-Chief, Southern Command, Poona.

4. Collectors should also see that the Officer Commanding the nearest Military station is kept closely informed of the communal situation existing in or near their stations or any other matter which might lead to troops being called out in aid of the civil power.

5. If the first report from a Collector on any of the subjects mentioned in paragraphs 1 and 2 above is received in any department of the Secretariat

other than the Public Department, the Secretary of the department shall send the report or a copy of it immediately to the Chief Secretary in the Public Department. Any special remedial action which may be called for must however be considered by the Department directly concerned.

6. As soon as the first report on any of the subjects mentioned in paragraphs 1 and 2 is received in the Public Department, the Chief Secretary:—

(a) will at once report the event, if it is of the nature described in paragraph 1 to the Government of India by telegram, indicating at the same time the Secretary of the State Government to whom all future references on the subjects should be made;

(b) will inform the Minister or Ministers concerned of the report received; and

(c) will send the report to the department or departments of the Secretariat concerned which should keep the Chief Secretary informed from time to time of any important developments.

With a view to avoid possible delay and to ensure the personal attention of the Secretary concerned, the Chief Secretary will pass on the preliminary report as required by clause (c) above, with a special slip as follows:—

Special:—This report has been communicated to the Government of India, and to the Minister (or Ministers) concerned and is now transmitted to the Secretary of the Department for personal attention.

Note:—"Daily telegraphic reports, if any, received subsequent to the first report, will also be dealt with similarly".

7. In cases of serious riots, raids, affrays, outbreaks or other events of sufficient importance to justify special reports, the telegraphic reports made to the Government of India should also be invariably repeated, in cypher if necessary to the Chief of Staff, Army, Delhi.

8. If the State Government do not consider that the matter is of a serious character, no further report to the Government of India need be sent and the telegraphic report should close with the words "no further report seems necessary". In all other cases of the kind which call for orders from the State Government, the preliminary report should be followed by an official report from the Secretary of the department directly concerned intimating the State Government's decision and communicating the orders passed as soon as the State Government have been able to review the facts of the case and arrive at a conclusion. If later reports of district officers reveal that the case is of a trifling character, this fact should be intimated to the Government of India by the departments directly concerned.

9. Four copies of all reports (excluding telegrams from the State Government) regarding communal disturbance should be forwarded to the Government of India.

APPENDIX III

INSTRUCTIONS FOR THE SUBMISSION AND DISPOSAL OF PETITIONS TO THE GOVERNOR BY PERSONS WHO ARE IN THE SERVICE OF GOVERNMENT IN RESPECT OF MATTERS AFFECTING THEM AS GOVERNMENT SERVANTS

1. No petition addressed to the Governor shall be withheld by any authority.

2. Every such petition shall be submitted through the head of the office or department to which the petitioner belongs or belonged, to the Secretary to Government in the administrative department concerned.

3. A petition addressed to the Governor will be liable to summary rejection if—

(i) the petitioner has not availed himself of the remedies provided by rules or orders applicable to the case; or

(ii) the petition was not submitted within six months from the date on which the final order passed on appeal or revision under the rules or orders applicable to the case, was communicated to the petitioner; or

(iii) the petition relates to a matter which has already been disposed of by the Governor.

The authority forwarding a petition shall state on it whether the petitioner has complied with the above requirements.

APPENDIX IV

I. No official communication addressed by a subordinate to a superior authority, or vice versa, should in normal circumstances be published by the addressing authority until the addressee has received it. When circumstances render earlier publication expedient, arrangements for publication should be made by telegram, the contents of the document being indicated to the addressee at the same time. If in rare cases of exigency it should be possible to adopt either of these courses, telegraphic intimation of the circumstances, with an explanation, should be sent to the addressee.

II. No Government, and no Member of a Government should in any circumstances give publicity to a document which might seem to reflect upon a superior authority without first obtaining the latter's consent, and no assistance must ever be given to the Press in formulating adverse comments upon the orders or actions of a superior authority.

III. In personal cases which have formed the subject of correspondence between the State Government and the Government of India the deciding authority should in every case clearly indicate (a) whether only the substance of the decision should be communicated to the officer concerned, or (b) whether, in addition a statement of the grounds upon which it is based or portions of the correspondence, and, if so, which portions, should be similarly communicated.

IV. Communications from the Government of India, or issued to the Government of India should in no case be made public either in the actual form in which they were issued or in the form of an abstract, without the sanction of the Government of India, unless in the case of communications from the Government of India, they have been marked for distribution to the Press or have been already published in the *Gazette of India.*

Note.—The restrictions imposed in the rules above are not intended to apply to departmental administration reports which may be communicated to the Press as soon as they are issued or after they have been reviewed by the State Government.

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